

1 A bill to be entitled
2 An act relating to expunging and sealing criminal
3 history records; amending s. 943.0585, F.S.; providing
4 jurisdiction of the courts over expunction procedures;
5 specifying types of records that are eligible for
6 court-ordered expunction; providing limitations upon
7 when a court may expunge such records; requiring
8 specified documentation be submitted to the Department
9 of Law Enforcement when seeking a certificate of
10 eligibility for court-ordered expunction; providing
11 specified documentation that must be submitted to the
12 court for a petition to expunge; requiring sworn
13 statement from petitioner; providing a criminal
14 penalty for perjury on such sworn statement; providing
15 guidelines for the processing of an order to expunge
16 once issued; providing the effect of the order to
17 expunge on the criminal history record; specifying
18 exceptions to the confidential and exempt status of an
19 expunged criminal history record; requiring criminal
20 justice agencies to destroy copies of records that
21 have been expunged; providing for the treatment of
22 certain cross-references; providing construction;
23 amending s. 943.059, F.S.; providing jurisdiction of
24 the courts over sealing procedures; specifying types
25 of records that are eligible for court-ordered
26 sealing; providing limitations upon when a court may

27 seal such specified records; requiring specified
 28 documentation be submitted to the Department of Law
 29 Enforcement when seeking a certificate of eligibility
 30 for court-ordered sealing; providing specified
 31 documentation that must be submitted to the court for
 32 a petition to seal; requiring sworn statement from
 33 petitioner; providing a criminal penalty for perjury
 34 on such sworn statement; providing guidelines for the
 35 processing of an order to seal once issued; providing
 36 the effect of the order to seal on the criminal
 37 history record; specifying exceptions to the
 38 confidential and exempt status of a sealed criminal
 39 history record; providing for the treatment of certain
 40 cross-references; providing construction; creating s.
 41 943.0595, F.S.; establishing a nonjudicial process for
 42 the sealing of specified records; specifying types of
 43 records that are eligible for the nonjudicial sealing
 44 process; providing exceptions to eligibility for
 45 obtaining a nonjudicial seal; establishing an
 46 application process and requiring specified
 47 documentation be submitted to the Department of Law
 48 Enforcement when seeking a nonjudicial sealing;
 49 requiring sworn statement from petitioner; providing a
 50 criminal penalty for perjury on such sworn statement;
 51 specifying how the nonjudicial sealing must be
 52 processed; providing for the effect of a record that

53 has been sealed under this section; providing for the
 54 treatment of certain cross-references; amending ss.
 55 776.09, 943.053, and 943.0582, F.S.; conforming cross-
 56 references; providing an effective date.

57

58 Be It Enacted by the Legislature of the State of Florida:

59

60 Section 1. Section 943.0585, Florida Statutes, is amended
 61 to read:

62 (Substantial rewording of section. See
 63 s. 943.0585, F.S., for present text.)

64 943.0585 Court-ordered expunction of criminal history
 65 records.-

66 (1) JURISDICTION.-The courts of this state have
 67 jurisdiction over their own procedures, including the
 68 maintenance, expunction, and correction of judicial records
 69 containing criminal history information to the extent such
 70 procedures are not inconsistent with the conditions,
 71 responsibilities, and duties established by this section. A
 72 court of competent jurisdiction may order a criminal justice
 73 agency to expunge the criminal history record of a minor or an
 74 adult who complies with the requirements of this section.

75 (2) ELIGIBILITY.-

76 (a) Except as provided in paragraph (b), a court may order
 77 the expunction of a criminal history record if:

78 1. An indictment, information, or other charging document

79 was not filed or issued in the case.

80 2. An indictment, information, or other charging document
81 was filed or issued in the case, but was subsequently dismissed
82 or nolle prosequi by the state attorney or statewide prosecutor,
83 or was dismissed or discharged by a court of competent
84 jurisdiction. However, a person may not obtain an expunction
85 under this subparagraph for a dismissal by reason of a judicial
86 finding or adjudication that he or she is incompetent to proceed
87 in a criminal or delinquency case, unless the person is a minor
88 who is adjudicated incompetent to proceed because of age or
89 immaturity.

90 3. A not guilty verdict was rendered subsequent to a trial
91 or an adjudicatory hearing, except that a person may not obtain
92 an expunction under this subparagraph for a verdict of not
93 guilty by reason of insanity.

94 4. A person has obtained a court-ordered sealing for a
95 criminal history record in which adjudication was withheld
96 pursuant to s. 943.059 and such criminal history record has been
97 sealed for at least 10 years. A person may not obtain an
98 expunction under this subparagraph for a criminal history record
99 in which there was an adjudication of guilt or adjudication of
100 delinquency.

101 5. A person has obtained a nonjudicial sealing pursuant to
102 s. 943.0595.

103 (b) A person may not obtain a court-ordered expunction
104 under this section unless all charges stemming from the arrest

105 or incident of alleged criminal activity to which the expunction
 106 pertains were disposed of in a manner described in paragraph
 107 (a).

108 (3) LIMITATIONS.—A court may only order the expunction of
 109 one criminal history record described in paragraph (2)(a). The
 110 record expunged must pertain to one arrest or one incident of
 111 alleged criminal activity, except that the court may, at its
 112 sole discretion, order the expunction of a criminal history
 113 record pertaining to more than one arrest or one incident of
 114 alleged criminal activity if the additional arrests directly
 115 relate to the original arrest or incident of alleged criminal
 116 activity. If the court intends to order the expunction of
 117 records pertaining to such additional arrests or incidents of
 118 alleged criminal activity, such intent must be specified in the
 119 order. A criminal justice agency may not expunge a record
 120 pertaining to such additional arrests or incidents of alleged
 121 criminal activity if the order to expunge does not articulate
 122 the intention of the court to expunge such record. This
 123 subsection does not prevent the court from ordering the
 124 expunction of only a portion of a criminal history record
 125 pertaining to one arrest or incident of alleged criminal
 126 activity.

127 (4) CERTIFICATE OF ELIGIBILITY FOR COURT-ORDERED
 128 EXPUNCTION.—

129 (a) A person seeking to expunge a criminal history record
 130 under this section must apply to the department for a

131 certificate of eligibility for expunction before petitioning the
132 court for expunction. The department shall issue a certificate
133 of eligibility for expunction to a person who is the subject of
134 a criminal history record if that person:

135 1. Has submitted to the department a written, certified
136 statement from the appropriate state attorney or statewide
137 prosecutor which indicates that the criminal history record
138 sought to be expunged is eligible under subsection (2).

139 2. Remits a \$75 processing fee to the department for
140 placement in the Department of Law Enforcement Operating Trust
141 Fund, unless such fee is waived by the executive director.

142 3. Has submitted to the department a certified copy of the
143 disposition of the charge to which the petition to expunge
144 pertains.

145 4. Has never secured a prior sealing or expunction of a
146 criminal history record under this section, s. 943.059, former
147 s. 893.14, former s. 901.33, or former s. 943.058, unless
148 expunction is sought for a sealed record pursuant to
149 subparagraph (2) (a) 4. or subparagraph (2) (a) 5.

150 5. Is no longer under court supervision applicable to the
151 disposition of the arrest or incident of alleged criminal
152 activity to which the petition to expunge pertains.

153 6. Has submitted to the department a full set of
154 fingerprints taken by a law enforcement agency for purposes of
155 identity verification.

156 (b) A certificate of eligibility for expunction is valid

157 for 12 months after the date that the certificate is issued by
 158 the department. After that time, the petitioner must reapply to
 159 the department for a new certificate of eligibility. Eligibility
 160 for a renewed certification of eligibility must be based on the
 161 status of the applicant and the law in effect at the time of the
 162 renewal application.

163 (c) The department shall adopt rules establishing
 164 procedures pertaining to the application for and issuance of
 165 certificates of eligibility for expunction.

166 (5) PETITION FOR COURT-ORDERED EXPUNCTION.—

167 (a) The court shall not order a criminal justice agency to
 168 expunge a criminal history record under this section until the
 169 person seeking to expunge the record has received a certificate
 170 of eligibility for expunction pursuant to subsection (4). Each
 171 petition to a court to expunge a criminal history record is
 172 complete only when accompanied by:

173 1. A valid certificate of eligibility for expunction
 174 issued by the department pursuant to subsection (4).

175 2. The petitioner's sworn statement attesting that:

176 a. The criminal history record sought to be expunged is
 177 eligible under subsection (2).

178 b. The petitioner meets the requirement of subparagraph
 179 (4) (a) 4.

180 c. The petitioner is eligible for the expunction to the
 181 best of his or her knowledge or belief and does not have any
 182 other petition to expunge or a petition to seal pending before a

183 court.

184 (b) A person who knowingly provides false information on
 185 the sworn statement required by subparagraph (a)2. commits a
 186 felony of the third degree, punishable as provided in s.
 187 775.082, s. 775.083, or s. 775.084.

188 (6) PROCESSING OF COURT-ORDERED EXPUNCTION.—

189 (a) In judicial proceedings under this section, a copy of
 190 the completed petition to expunge shall be served upon the
 191 appropriate state attorney or the statewide prosecutor and upon
 192 the arresting agency; however, it is not necessary to make any
 193 agency other than the state a party. The appropriate state
 194 attorney or the statewide prosecutor and the arresting agency
 195 may respond to the court regarding the completed petition to
 196 expunge.

197 (b) If relief is granted by the court, the clerk of the
 198 court shall certify copies of the order to the appropriate state
 199 attorney or the statewide prosecutor and the arresting agency.
 200 The arresting agency is responsible for forwarding the order to
 201 any other agency to which the arresting agency disseminated the
 202 criminal history record information to which the order pertains.
 203 The department shall notify the Federal Bureau of Investigation
 204 of the order to expunge, as needed. The clerk of the court shall
 205 certify a copy of the order to any other agency which the
 206 records of the court reflect has received the criminal history
 207 record from the court.

208 (c) The department or any other criminal justice agency is

209 not required to act on an order to expunge entered by a court if
 210 such order does not comply with the requirements of this
 211 section. Upon receipt of such an order, the department must
 212 notify the issuing court, the appropriate state attorney or
 213 statewide prosecutor, the petitioner or the petitioner's
 214 attorney, and the arresting agency of the reason for
 215 noncompliance. The appropriate state attorney or statewide
 216 prosecutor shall take action within 60 days after receiving such
 217 order to correct the record and petition the court to void the
 218 order. A cause of action, including contempt of court, does not
 219 arise against a criminal justice agency for failure to comply
 220 with an order to expunge if the petitioner for such order failed
 221 to obtain the certificate of eligibility as required by this
 222 section or such order does not otherwise comply with the
 223 requirements of this section.

224 (7) EFFECT OF COURT-ORDERED EXPUNCTION.—

225 (a) A criminal history record of a minor or an adult which
 226 is ordered expunged by a court of competent jurisdiction
 227 pursuant to this section must be physically destroyed or
 228 obliterated by each criminal justice agency having custody of
 229 such record, except that a criminal history record in the
 230 custody of the department must be retained in all cases.

231 (b) The person who is the subject of a criminal history
 232 record that is expunged under this section or under other
 233 provisions of law, including former s. 893.14, former s. 901.33,
 234 and former s. 943.058, may lawfully deny or fail to acknowledge

235 the criminal history covered by the expunged record, except when
 236 the subject of the record:

237 1. Is a candidate for employment with a criminal justice
 238 agency;

239 2. Is a defendant in a criminal prosecution;

240 3. Concurrently or subsequently seeks relief under this
 241 section, s. 943.0583, or s. 943.059;

242 4. Is a candidate for admission to The Florida Bar;

243 5. Is seeking to be employed or licensed by or to contract
 244 with the Department of Children and Families, the Division of
 245 Vocational Rehabilitation within the Department of Education,
 246 the Agency for Health Care Administration, the Agency for
 247 Persons with Disabilities, the Department of Health, the
 248 Department of Elderly Affairs, or the Department of Juvenile
 249 Justice or to be employed or used by such contractor or licensee
 250 in a sensitive position having direct contact with children,
 251 persons with disabilities, or elderly persons;

252 6. Is seeking to be employed or licensed by the Department
 253 of Education, a district school board, a university laboratory
 254 school, a charter school, a private or parochial school, or a
 255 local governmental entity that licenses child care facilities;

256 7. Is seeking to be licensed by the Division of Insurance
 257 Agent and Agency Services within the Department of Financial
 258 Services; or

259 8. Is seeking to be appointed as a guardian pursuant to s.
 260 744.3125.

261 (c) Subject to the exceptions in paragraph (b), a person
 262 who has been granted an expunction under this section, former s.
 263 893.14, former s. 901.33, or former s. 943.058 may not be held
 264 under a law of this state to commit perjury or to be otherwise
 265 liable for giving a false statement by reason of such person's
 266 failure to recite or acknowledge an expunged criminal history
 267 record.

268 (d) Notwithstanding any law to the contrary, a criminal
 269 justice agency may comply with laws, court orders, and official
 270 requests of other jurisdictions relating to expunction,
 271 correction, or confidential handling of criminal history records
 272 or information derived therefrom.

273 (8) EXCEPTION FOR LAWFUL SELF-DEFENSE.—

274 (a) Notwithstanding subsections (2), (4), and (5):

275 1. The department shall issue a certificate of eligibility
 276 for expunction under this subsection to a person who is the
 277 subject of a criminal history record if that person has
 278 submitted to the department, on a form provided by the
 279 department, a written, certified statement from the appropriate
 280 state attorney or statewide prosecutor which states whether an
 281 information, indictment, or other charging document was not
 282 filed or was dismissed by the state attorney, or dismissed by
 283 the court, because it was found that the person acted in lawful
 284 self-defense pursuant to the provisions related to justifiable
 285 use of force in chapter 776.

286 2. Each petition to a court to expunge a criminal history

287 record pursuant to this subsection is complete only when
 288 accompanied by:

289 a. A valid certificate of eligibility for expunction
 290 issued by the department pursuant to this subsection.

291 b. The petitioner's sworn statement attesting that the
 292 petitioner is eligible for such an expunction to the best of his
 293 or her knowledge or belief.

294
 295 A person who knowingly provides false information on such sworn
 296 statement to the court commits a felony of the third degree,
 297 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

298 (b) This subsection does not confer any right to the
 299 expunction of a criminal history record, and any request for
 300 expunction of a criminal history record may be denied at the
 301 discretion of the court.

302 (c) Subsections (1), (3), (6), and (7) apply to an
 303 expunction ordered under this subsection, except that a person
 304 may obtain an expunction of one or more criminal history records
 305 described under subparagraph (a)1.

306 (d) The department shall adopt rules to establish
 307 procedures pertaining to the application for and issuance of
 308 certificates of eligibility for expunction under this
 309 subsection.

310 (9) STATUTORY REFERENCES.—Any reference to:

311 (a) Another chapter, section, or other subdivision of the
 312 Florida Statutes in this section constitutes a general reference

313 under the doctrine of incorporation by reference.

314 (b) This section or a subdivision of this section in
 315 another chapter, section, or other subdivision of the Florida
 316 Statutes constitutes a general reference under the doctrine of
 317 incorporation by reference.

318 (10) NO RIGHT TO EXPUNCTION.—This section does not confer
 319 a right to the expunction of a criminal history record, and a
 320 request for expunction of a criminal history record may be
 321 denied at the sole discretion of the court.

322 Section 2. Section 943.059, Florida Statutes, is amended
 323 to read:

324 (Substantial rewording of section. See
 325 s. 943.059, F.S., for present text.)

326 943.059 Court-ordered sealing of criminal history
 327 records.—

328 (1) JURISDICTION.—The courts of this state have
 329 jurisdiction over their own procedures, including the
 330 maintenance, sealing, and correction of judicial records
 331 containing criminal history information to the extent such
 332 procedures are not inconsistent with the conditions,
 333 responsibilities, and duties established by this section. A
 334 court of competent jurisdiction may order a criminal justice
 335 agency to seal the criminal history record of a minor or an
 336 adult who complies with the requirements of this section.

337 (2) ELIGIBILITY.—

338 (a) Except as provided in paragraph (b), a court may order

339 the sealing of a criminal history record if the person was:
 340 1. Found guilty of, found to have committed, pled guilty
 341 to, or pled nolo contendere to an offense and none of the
 342 charges stemming from the arrest or alleged criminal activity to
 343 which the sealing pertains resulted in an adjudication of guilt
 344 or delinquency; or
 345 2. Adjudicated guilty or adjudicated delinquent for a
 346 nonviolent misdemeanor. For purposes of this subparagraph, the
 347 term "nonviolent misdemeanor" means a misdemeanor violation of:
 348 a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13,
 349 s. 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s.
 350 810.13, s. 812.014(3) (a), s. 823.01, s. 823.02, s. 856.011, s.
 351 856.015, s. 870.02, s. 893.13(3), s. 893.13(6) (b), or s.
 352 893.147(1); or
 353 b. An offense specified in chapters 316-324, unless the
 354 violation directly caused serious bodily injury or death to a
 355 person or the violation is an offense specified in chapter 316
 356 or chapter 322 which was committed by a person driving a
 357 commercial motor vehicle as defined in s. 316.003 or holding a
 358 commercial driver license as defined in s. 322.01.
 359 (b) A person may not obtain a court-ordered sealing of a
 360 criminal history record under this section if:
 361 1. The person seeking the sealing has, at any time before
 362 the date on which the application for a certificate of
 363 eligibility is filed, been adjudicated guilty for a felony
 364 offense or adjudicated delinquent for an offense that would be a

365 felony if committed by an adult; or

366 2. The record relates to a serious offense for which the
367 person was found guilty or adjudicated delinquent, or pled
368 guilty or pled nolo contendere, regardless of whether
369 adjudication was withheld. For purposes of this subparagraph,
370 the term "serious offense" means a violation of s. 393.135, s.
371 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04,
372 s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s.
373 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a
374 violation enumerated in s. 907.041, or any violation specified
375 as a predicate offense for registration as a sexual predator
376 pursuant to s. 775.21, without regard to whether that offense
377 alone is sufficient to require such registration, or for
378 registration as a sexual offender pursuant to s. 943.0435.

379 (c) A criminal history record that is sealed under this
380 section shall continue to be considered a prior conviction for
381 purposes of any statute that uses a prior conviction as a basis
382 for determining the applicable degree of felony or misdemeanor
383 for a criminal offense, the penalty for a criminal offense, or
384 any other issue with respect to a criminal offense. For purposes
385 of this paragraph, the term "conviction" means a determination
386 of guilt that is the result of a plea or trial, regardless of
387 whether adjudication is withheld. However, whether a conviction
388 for which adjudication is withheld may be considered a prior
389 conviction shall be controlled by the statute using the prior
390 conviction as the basis for determining the applicable degree of

391 offense, penalty, or other issue.

392 (3) LIMITATIONS.—A court may only order the sealing of one
 393 criminal history record described in paragraph (2) (a). The
 394 record sealed must pertain to one arrest or one incident of
 395 alleged criminal activity, except that the court may, at its
 396 sole discretion, order the sealing of a criminal history record
 397 pertaining to more than one arrest or one incident of alleged
 398 criminal activity if the additional arrests or incidents of
 399 alleged criminal activity directly relate to the original
 400 arrest. If the court intends to order the sealing of records
 401 pertaining to such additional arrests or incidents of alleged
 402 criminal activity, such intent must be specified in the order. A
 403 criminal justice agency may not seal a record pertaining to such
 404 additional arrests or incidents of alleged criminal activity if
 405 the order to seal does not articulate the intention of the court
 406 to seal such record. This subsection does not prevent the court
 407 from ordering the sealing of only a portion of a criminal
 408 history record pertaining to one arrest or incident of alleged
 409 criminal activity.

410 (4) CERTIFICATE OF ELIGIBILITY FOR COURT-ORDERED SEALING.—

411 (a) A person seeking to seal a criminal history record
 412 under this section shall apply to the department for a
 413 certificate of eligibility for sealing before petitioning the
 414 court for sealing. The department shall issue a certificate of
 415 eligibility for sealing to a person who is the subject of a
 416 criminal history record if that person:

417 1. Has submitted to the department a written, certified
418 statement from the appropriate state attorney or statewide
419 prosecutor which indicates that the criminal history record
420 sought to be sealed is eligible under subsection (2).

421 2. Remits a \$75 processing fee to the department for
422 placement in the Department of Law Enforcement Operating Trust
423 Fund, unless such fee is waived by the executive director.

424 3. Has submitted to the department a certified copy of the
425 disposition of the charge to which the petition to seal
426 pertains.

427 4. Has never secured a prior sealing or expunction of a
428 criminal history record under this section, s. 943.0585, former
429 s. 893.14, former s. 901.33, or former s. 943.058.

430 5. Is no longer under court supervision applicable to the
431 disposition of the arrest or incident of alleged criminal
432 activity to which the petition to seal pertains.

433 6. Has not been arrested for or charged with a criminal
434 offense, in this state or any other jurisdiction within the
435 United States between the date that the person completed the
436 sentence imposed by the court for the offense to which the
437 petition to seal pertains and the date of the application for
438 the certificate of eligibility. This period of time must be at
439 least 3 years.

440 7. Has submitted to the department a full set of
441 fingerprints taken by a law enforcement agency for purposes of
442 identity verification.

443 (b) A certificate of eligibility for sealing is valid for
444 12 months after the date that the certificate is issued by the
445 department. After that time, the petitioner must reapply to the
446 department for a new certificate of eligibility. Eligibility for
447 a renewed certificate of eligibility must be based on the status
448 of the applicant and the law in effect at the time of the
449 renewal application.

450 (c) The department shall adopt rules to establish
451 procedures pertaining to the application for and issuance of
452 certificates of eligibility for sealing.

453 (5) PETITION FOR COURT-ORDERED SEALING.—

454 (a) The court may not order a criminal justice agency to
455 seal a criminal history record under this section until the
456 person seeking to seal the record has received a certificate of
457 eligibility for sealing pursuant to subsection (4). Each
458 petition to a court to seal a criminal history record is
459 complete only when accompanied by:

460 1. A valid certificate of eligibility for sealing issued
461 by the department pursuant to subsection (4).

462 2. The petitioner's sworn statement attesting that:

463 a. The criminal history record sought to be sealed is
464 eligible under subsection (2).

465 b. The petitioner meets the requirement of subparagraph
466 (4)(a)4.

467 c. The petitioner has not been arrested for or charged
468 with a criminal offense in this state or any other jurisdiction

469 within the United States between the date that the person
470 completed the sentence imposed by the court for the offense to
471 which the petition to seal pertains and the date of the petition
472 for court-ordered sealing, which period must be at least 3
473 years.

474 d. The petitioner is eligible for the expunction to the
475 best of his or her knowledge or belief and does not have any
476 other petition to expunge or any petition to seal pending before
477 any court.

478 (b) A person who knowingly provides false information on
479 the sworn statement required by subparagraph (a)2. commits a
480 felony of the third degree, punishable as provided in s.
481 775.082, s. 775.083, or s. 775.084.

482 (6) PROCESSING OF COURT-ORDERED SEALING.—

483 (a) In judicial proceedings under this section, a copy of
484 the completed petition to seal shall be served upon the
485 appropriate state attorney or the statewide prosecutor and upon
486 the arresting agency; however, it is not necessary to make any
487 agency other than the state a party. The appropriate state
488 attorney or the statewide prosecutor and the arresting agency
489 may respond to the court regarding the completed petition to
490 seal.

491 (b) If relief is granted by the court, the clerk of the
492 court shall certify copies of the order to the appropriate state
493 attorney or the statewide prosecutor and the arresting agency.
494 The arresting agency is responsible for forwarding the order to

495 any other agency to which the arresting agency disseminated the
 496 criminal history record information to which the order pertains.
 497 The department shall notify the Federal Bureau of Investigation
 498 of the order to seal, as needed. The clerk of the court shall
 499 certify a copy of the order to any other agency which the
 500 records of the court reflect has received the criminal history
 501 record from the court.

502 (c) The department or any other criminal justice agency is
 503 not required to act on an order to seal entered by a court if
 504 such order does not comply with the requirements of this
 505 section. Upon receipt of such an order, the department must
 506 notify the issuing court, the appropriate state attorney or
 507 statewide prosecutor, the petitioner or the petitioner's
 508 attorney, and the arresting agency of the reason for
 509 noncompliance. The appropriate state attorney or statewide
 510 prosecutor shall take action within 60 days after receiving such
 511 order to correct the record and petition the court to void the
 512 order. A cause of action, including contempt of court, does not
 513 arise against a criminal justice agency for failure to comply
 514 with an order to seal when the petitioner for such order failed
 515 to obtain the certificate of eligibility as required by this
 516 section or such order does not otherwise comply with the
 517 requirements of this section.

518 (d) An order sealing a criminal history record pursuant to
 519 this section does not require that such record be surrendered to
 520 the court, and such record shall continue to be maintained by

521 the department and other criminal justice agencies.

522 (7) EFFECT OF COURT-ORDERED SEALING.—

523 (a) The person who is the subject of a criminal history
524 record that is sealed under this section or under other
525 provisions of law, including former s. 893.14, former s. 901.33,
526 and former s. 943.058, may lawfully deny or fail to acknowledge
527 the criminal history covered by the sealed record, unless the
528 subject of the record:

529 1. Is a candidate for employment with a criminal justice
530 agency;

531 2. Is a defendant in a criminal prosecution;

532 3. Concurrently or subsequently seeks relief under this
533 section or s. 943.0585;

534 4. Is a candidate for admission to The Florida Bar;

535 5. Is seeking to be employed or licensed by or to contract
536 with the Department of Children and Families, the Division of
537 Vocational Rehabilitation within the Department of Education,
538 the Agency for Health Care Administration, the Agency for
539 Persons with Disabilities, the Department of Health, the
540 Department of Elderly Affairs, or the Department of Juvenile
541 Justice or to be employed or used by such contractor or licensee
542 in a sensitive position having direct contact with children,
543 persons with disabilities, or elderly persons;

544 6. Is seeking to be employed or licensed by the Department
545 of Education, any district school board, any university
546 laboratory school, any charter school, any private or parochial

547 school, or any local governmental entity that licenses child
548 care facilities;

549 7. Is attempting to purchase a firearm from a licensed
550 importer, licensed manufacturer, or licensed dealer and is
551 subject to a criminal history check under state or federal law;

552 8. Is seeking to be licensed by the Division of Insurance
553 Agent and Agency Services within the Department of Financial
554 Services;

555 9. Is seeking to be appointed as a guardian pursuant to s.
556 744.3125; or

557 10. Is seeking to be licensed by the Bureau of License
558 Issuance of the Division of Licensing within the Department of
559 Agriculture and Consumer Services to carry a concealed weapon or
560 concealed firearm. This subparagraph applies only in the
561 determination of an applicant's eligibility under s. 790.06.

562 11. Is seeking authorization to use a restricted driver
563 license from, to be employed or licensed by or to contract with,
564 or to obtain a commercial driver license through, the Department
565 of Highway Safety and Motor Vehicles.

566 (b) Subject to the exceptions in paragraph (a), a person
567 who has been granted a sealing under this section, former s.
568 893.14, former s. 901.33, or former s. 943.058 may not be held
569 under any provision of law of this state to commit perjury or to
570 be otherwise liable for giving a false statement by reason of
571 such person's failure to recite or acknowledge a sealed criminal
572 history record.

573 (c) Notwithstanding any law to the contrary, a criminal
 574 justice agency may comply with laws, court orders, and official
 575 requests of other jurisdictions relating to sealing, correction,
 576 or confidential handling of criminal history records or
 577 information derived therefrom.

578 (8) STATUTORY REFERENCES.—Any reference to:

579 (a) Another chapter, section, or other subdivision of the
 580 Florida Statutes in this section constitutes a general reference
 581 under the doctrine of incorporation by reference.

582 (b) This section or a subdivision of this section in
 583 another chapter, section, or other subdivision of the Florida
 584 Statutes constitutes a general reference under the doctrine of
 585 incorporation by reference.

586 (9) NO RIGHT TO SEALING.—This section does not confer a
 587 right to the sealing of a criminal history record, and a request
 588 for sealing of a criminal history record may be denied at the
 589 sole discretion of the court.

590 Section 3. Section 943.0595, Florida Statutes, is created
 591 to read:

592 943.0595 Nonjudicial sealing of criminal history records.—

593 (1) NONJUDICIAL SEALING.—Notwithstanding any provision of
 594 law relating generally to the preservation and destruction of
 595 public records, the department shall adopt rules to establish
 596 procedures pertaining to the nonjudicial sealing of any criminal
 597 history record of a minor or an adult described in this section.

598 (2) ELIGIBILITY.—

599 (a) The department must approve the nonjudicial sealing of
 600 a criminal history record if:

601 1. An indictment, information, or other charging document
 602 was not filed or issued in the case.

603 2. An indictment, information, or other charging document
 604 was filed or issued in the case, but was subsequently dismissed
 605 or nolle prosequi by the state attorney or statewide prosecutor,
 606 or was dismissed or discharged by a court of competent
 607 jurisdiction. However, a person may not obtain a sealing under
 608 this subparagraph for a dismissal by reason of a judicial
 609 finding or adjudication that he or she is incompetent to proceed
 610 in a criminal or delinquency case, unless the person is a minor
 611 who is adjudicated incompetent to proceed because of age or
 612 immaturity.

613 3. A not guilty verdict was rendered subsequent to a trial
 614 or adjudicatory hearing, except that a person may not obtain a
 615 sealing under this subparagraph for a verdict of not guilty by
 616 reason of insanity.

617 (b) A person may not obtain a nonjudicial sealing under
 618 this section unless all charges stemming from the arrest or
 619 alleged incident of criminal activity to which the application
 620 for sealing pertains were disposed of in a manner described in
 621 paragraph (a).

622 (3) LIMITATIONS.—There is no limitation on the number of
 623 times that a person may obtain a nonjudicial sealing for a
 624 criminal history record described in paragraph (2) (a). An

625 applicant may seek to have multiple criminal history records
626 sealed through the submission of a single application to the
627 department. The department shall approve each application for
628 nonjudicial sealing which satisfies the requirements of this
629 section.

630 (4) APPLICATION FOR NONJUDICIAL SEALING.—An adult or, in
631 the case of a minor, the parent or legal guardian of or legal
632 counsel for the minor, seeking to seal a criminal history record
633 under this section shall apply to the department in the manner
634 prescribed by rule. An application for a nonjudicial sealing
635 must be accompanied by a:

636 (a) Written, certified statement from the appropriate
637 state attorney or statewide prosecutor which indicates that the
638 criminal history record sought to be sealed is eligible under
639 this section.

640 (b) Processing fee of \$75 to the department for placement
641 in the Department of Law Enforcement Operating Trust Fund,
642 unless such fee is waived by the executive director.

643 (c) Certified copy of the disposition of the charge to
644 which the application to seal pertains.

645 (d) Full set of fingerprints of the applicant taken by a
646 law enforcement agency for purposes of identity verification.

647 (5) PROCESSING OF NONJUDICIAL SEALING.—

648 (a) If the department approves an application for a
649 nonjudicial sealing, a certified copy of the form approving the
650 nonjudicial sealing shall be forwarded to the appropriate state

651 attorney or the statewide prosecutor, the arresting agency, and
652 the clerk of the court. The arresting agency is responsible for
653 forwarding the form approving the nonjudicial sealing to any
654 other agency to which the arresting agency disseminated the
655 criminal history record information to which the form pertains.
656 The department shall notify the Federal Bureau of Investigation
657 of the nonjudicial sealing as needed. The clerk of the court
658 shall forward a copy of the form to any other agency that the
659 records of the court reflect has received the criminal history
660 record from the court.

661 (b) The nonjudicial sealing of a criminal history record
662 pursuant to this section does not require that such record be
663 surrendered to the court, and such record shall continue to be
664 maintained by the department and other criminal justice
665 agencies.

666 (6) EFFECT OF NONJUDICIAL SEALING.—The sealing of a record
667 under this section shall have the same effect, and such record
668 may be disclosed by the department in the same manner, as a
669 record sealed under s. 943.059, except that a record sealed
670 under this section shall not be made available to the Department
671 of Highway Safety and Motor Vehicles.

672 (7) STATUTORY REFERENCES.—Any reference to:

673 (a) Another chapter, section, or other subdivision of the
674 Florida Statutes in this section constitutes a general reference
675 under the doctrine of incorporation by reference.

676 (b) This section or a subdivision of this section in

677 another chapter, section, or other subdivision of the Florida
 678 Statutes constitutes a general reference under the doctrine of
 679 incorporation by reference.

680 Section 4. Subsection (3) of section 776.09, Florida
 681 Statutes, is amended to read:

682 776.09 Retention of records pertaining to persons found to
 683 be acting in lawful self-defense; expunction of criminal history
 684 records.—

685 (3) Under either condition described in subsection (1) or
 686 subsection (2), the person accused may apply for a certificate
 687 of eligibility to expunge the associated criminal history
 688 record, pursuant to s. 943.0585(8) ~~943.0585(5)~~, notwithstanding
 689 ~~the eligibility requirements prescribed in s. 943.0585(1)(b) or~~
 690 ~~(2).~~

691 Section 5. Subsections (5), (8), (9), and (10) of section
 692 943.053, Florida Statutes, are amended to read:

693 943.053 Dissemination of criminal justice information;
 694 fees.—

695 (5) Notwithstanding the provisions of s. 943.0525, and any
 696 user agreements adopted pursuant thereto, and notwithstanding
 697 the confidentiality of sealed records as provided for in ss. s.
 698 943.059 and 943.0595, the department shall make online access to
 699 Florida criminal justice information available to each judge in
 700 the state courts system for the purpose of assisting judges in
 701 their case-related decisionmaking responsibilities. Such online
 702 access shall be provided without charge to the state courts

703 system. Sealed records received by the courts under this section
 704 remain confidential and exempt from the provisions of s.
 705 119.07(1). The information provided pursuant to this section
 706 shall not take the place of any information required to be
 707 provided to the courts by any other agency or entity.
 708 Information provided under this section shall be used only for
 709 the official court business for which it was requested and may
 710 not be further disseminated.

711 (8) Notwithstanding the provisions of s. 943.0525, and any
 712 user agreements adopted pursuant thereto, and notwithstanding
 713 the confidentiality of sealed records as provided for in ss. ~~s.~~
 714 943.059 and 943.0595, the sheriff of any county that has
 715 contracted with a private entity to operate a county detention
 716 facility pursuant to the provisions of s. 951.062 shall provide
 717 that private entity, in a timely manner, copies of the Florida
 718 criminal history records for its inmates. The sheriff may assess
 719 a charge for the Florida criminal history records pursuant to
 720 the provisions of chapter 119. Sealed records received by the
 721 private entity under this section remain confidential and exempt
 722 from the provisions of s. 119.07(1).

723 (9) Notwithstanding the provisions of s. 943.0525, and any
 724 user agreements adopted pursuant thereto, and notwithstanding
 725 the confidentiality of sealed records as provided for in ss. ~~s.~~
 726 943.059 and 943.0595, the Department of Corrections shall
 727 provide, in a timely manner, copies of the Florida criminal
 728 history records for inmates housed in a private state

729 | correctional facility to the private entity under contract to
 730 | operate the facility pursuant to the provisions of s. 944.105.
 731 | The department may assess a charge for the Florida criminal
 732 | history records pursuant to the provisions of chapter 119.
 733 | Sealed records received by the private entity under this section
 734 | remain confidential and exempt from the provisions of s.
 735 | 119.07(1).

736 | (10) Notwithstanding the provisions of s. 943.0525 and any
 737 | user agreements adopted pursuant thereto, and notwithstanding
 738 | the confidentiality of sealed records as provided for in ss. s.
 739 | 943.059 and 943.0595, the Department of Juvenile Justice or any
 740 | other state or local criminal justice agency may provide copies
 741 | of the Florida criminal history records for juvenile offenders
 742 | currently or formerly detained or housed in a contracted
 743 | juvenile assessment center or detention facility or serviced in
 744 | a contracted treatment program and for employees or other
 745 | individuals who will have access to these facilities, only to
 746 | the entity under direct contract with the Department of Juvenile
 747 | Justice to operate these facilities or programs pursuant to the
 748 | provisions of s. 985.688. The criminal justice agency providing
 749 | such data may assess a charge for the Florida criminal history
 750 | records pursuant to the provisions of chapter 119. Sealed
 751 | records received by the private entity under this section remain
 752 | confidential and exempt from the provisions of s. 119.07(1).
 753 | Information provided under this section shall be used only for
 754 | the criminal justice purpose for which it was requested and may

755 not be further disseminated.

756 Section 6. Paragraph (a) of subsection (2) and subsections
 757 (4) and (5) of section 943.0582, Florida Statutes, are amended
 758 to read:

759 943.0582 Prearrest, postarrest, or teen court diversion
 760 program expunction.—

761 (2) (a) As used in this section, the term "expunction" has
 762 the same meaning ascribed in and effect as s. 943.0585, except
 763 that:

764 1. The provisions of s. 943.0585(7)(b) ~~943.0585(4)(a)~~ do
 765 not apply, except that the criminal history record of a person
 766 whose record is expunged pursuant to this section shall be made
 767 available only to criminal justice agencies for the purpose of
 768 determining eligibility for prearrest, postarrest, or teen court
 769 diversion programs; when the record is sought as part of a
 770 criminal investigation; or when the subject of the record is a
 771 candidate for employment with a criminal justice agency. For all
 772 other purposes, a person whose record is expunged under this
 773 section may lawfully deny or fail to acknowledge the arrest and
 774 the charge covered by the expunged record.

775 2. Records maintained by local criminal justice agencies
 776 in the county in which the arrest occurred that are eligible for
 777 expunction pursuant to this section shall be sealed as the term
 778 is used in s. 943.059.

779 (4) The department may ~~is authorized to~~ charge a \$75
 780 processing fee for each request received for prearrest or

781 postarrest diversion program expunction, for placement in the
782 Department of Law Enforcement Operating Trust Fund, unless such
783 fee is waived by the executive director.

784 (5) Expunction or sealing granted under this section does
785 not prevent the minor who receives such relief from seeking
786 ~~petitioning for~~ the expunction or sealing of a later criminal
787 history record as provided for in ss. 943.0583, 943.0585, ~~and~~
788 943.059, and 943.0595, if the minor is otherwise eligible under
789 those sections.

790 Section 7. This act shall take effect July 1, 2016.